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**FISCAL IMPACT STATEMENT**

**LS 6678**

**BILL NUMBER:** HB 1386

**NOTE PREPARED:** Feb 26, 2007

**BILL AMENDED:** Feb 23, 2007

**SUBJECT:** Federal Sex Offender Bill.

**FIRST AUTHOR:** Rep. Lawson L

**FIRST SPONSOR:** Sen. Bray

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
X FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *Added Offenses to Sex Offender Registry-* This bill adds: (1) promoting prostitution as a Class B felony; (2) promotion of human trafficking if the victim is less than 18 years of age; (3) sexual trafficking of a minor; (4) human trafficking if the victim is less than 18 years of age; and (5) possession of child pornography as a first offense; to the list of offenses requiring a person to register as a sex offender.

*Sex Offenders No Longer Required to Register-* The bill specifies that registration as a sex offender is not required for: (1) a parent or guardian who is convicted of kidnapping or confining a child of the parent or a child over whom the guardian has guardianship; or (2) a person convicted of sexual misconduct with a minor as a Class C felony if the person is not more than four years older than the victim and the court finds that the person should not be required to register. The bill removes the lifetime registration requirement for sexual battery as a Class D felony, and imposes the standard ten-year registration requirement.

*Child Pornography-* The bill specifies that, for purposes of the child pornography statute, a person may not possess certain material depicting or describing sexual conduct by a child: (1) the person knows is less than 16 years of age; or (2) who appears to be less than 16 years of age. The bill provides that it is a Class B felony if a person commits child seduction by using a computer network and has a previous unrelated conviction for committing the offense by using a computer network.

*Offenders Against Children-* The bill specifies that a person is an offender against children if the person engages in a conspiracy to commit or attempts to commit an offense that would make the person an offender against children.

(The introduced version of this bill was prepared by the Sentencing Policy Study Committee.)

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** *Added Offenses to Sex Offender Registry-* The Department of Correction could see an increase in information notifications to local law enforcement agencies when a sex offender is released from a Department correctional facility. The Department would likely be able to process additional notifications within their existing level of resources.

*Background-* Under current law, the Department is required to forward a sex offender's information (if paroled from a Department facility) to all counties in which the sex offender is required to register.

*Child Pornography-* State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. A Class C felony is punishable by a prison term ranging between 2 to 8 years, depending upon mitigating and aggravating circumstances. A Class B felony is punishable by a prison term ranging from 6 to 20 years. More offenders could mean increased costs to the Department of Correction (DOC). The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139. The average length of stay in DOC facilities for all Class B felony offenders is approximately 3.7 years.

(Revised) *Offenders Against Children-* Currently, it is a Class D felony for offenders against children to reside within 1,000 feet of school property or within one mile of the residence of the victim of the offender's sex offense. The offense would be expanded to include those that attempt to commit or are involved in conspiracy to commit offenses against children.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** *Sex Offenders No Longer Required to Register-* Meeting the requirements of federal law within Indiana's sex offender registry statute is one of several conditions that must be met for the state to receive federal Byrne Grants. A recent change in federal law allows for the removal of certain types of sex offenders (as specified in the bill) required to register under state statute. The state received about \$6 M in Byrne Grants during FFY 2005 and about \$3.7 M in FFY 2006.

*Child Pornography-* No change would likely occur in state revenue as a result of this provision, since criminal fines and court fees are the same for either Class C or B felonies.

(Revised) *Offenders Against Children-* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

**Explanation of Local Expenditures:** *Added Offenses to Sex Offender Registry-* The bill would add four new offenses and modify one offense that would require an offender to register with the Sex Offender Registry upon release from incarceration. Adding the additional offenses would likely present a minimal increase in administrative expenses to sheriffs with respect to registering new sex offenders. When a sex offender registers with their county sheriff, the sheriff takes the offender's name (including all known aliases), date of birth, social security number, driver's license number, residential address, and work address. Additionally, the sheriff photographs the offender and sends the information, including photograph, to the Sex Offender Registry maintained by the Indiana Sheriffs' Association.

*Background on Sex Offender Registry Website-* Under current law, the Sex Offender Registry website may be funded from sheriff jail commissary funds, grants from the Indiana Criminal Justice Institute (ICJI), and any other source approved by a county fiscal body. The current Sex Offender Registry website has received funding from the ICJI.

*Background on Sexual Offenders and New Registry Offenses-* There are currently 624 sex offenders that are on parole supervision. Over the next three years, it is anticipated that approximately 800 additional sex offenders will be released.

The new offenses that would require registration with the sex offender registry upon release from incarceration are the following.

Offense	IC Code Cite
Promotion of human trafficking (if victim is under 18 years old)	IC 35-42-3.5-1(a)(2)
Sexual trafficking of a minor	IC 35-42-3.5-1(b)
Human trafficking (if victim is under 18 years old)	IC 35-42-3.5-1(c)(3)
Possession of child pornography*	IC 35-42-4-4(c)
B felony promoting prostitution	IC 35-45-4-4
*Current law requires only repeat offenders to register with the sex offenders registry.	

The offenses under IC 35-42-3.5 (Human Trafficking Act) were established by P.L. 173-2006 and effective July 1, 2006. Between FY 1996 and June 2006, there have been three commitments to a Department correctional facility for B felony promoting prostitution.

From FY 1996 through June 2006, there have been 61 commitments for either child exploitation or possession of child pornography under IC 35-42-4-4. Child exploitation is currently an offense that requires registration with the Sex Offender Registry upon release.

(Revised) *Offenders Against Children*- If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** *Child Pornography*- No additional revenues would be expected since the court fees for Class C and Class B felonies are both \$120.

(Revised) *Offenders Against Children*- If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** Department of Correction; Indiana Criminal Justice Institute.

**Local Agencies Affected:** County sheriffs, trial courts, local law enforcement agencies.

**Information Sources:** Department of Correction; Indiana Sheriffs' Association; Steven King, Indiana Criminal Justice Institute, 317-234-1653; Indiana Sentencing Policy Study Committee Draft Minutes, September 18, 2006, meeting.

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